

## **DETAILED ACTION**

This office action is in response amendment filed March 14, 2008. Applicant amended claim 153. Claims 133-139 and 152-159 are pending.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 133-139 and 152-159 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. US 6,463,585 in view of Ho et al. (6,120,300) further in view of Pirolli et al. 5,835,905.

Regarding claims 133 and 134, Hendricks teach accessing a plurality of consumer transaction records corresponding to a plurality of consumers and demographic information records corresponding to at least some of the plurality of consumers (see col. 4 lines 12-17, col. 54-67, col. 5 lines 1-19, col. 11 lines 31-40, col. 20 lines 4-27, col. 26 line 48 to col. 27 line 6); Hendricks teaches determining characteristic of the consumer or generating a simulated profile *using an algorithm that analyzes access history and viewing habits (based on psychological or sociological or behavior)* (using test information generated from a statistically significant number of viewers, the simulated profile algorithm *estimates the viewer's age, education, sex and other relevant information*) (col. 66 line 53 to col. 67 line 4); retrieving at least one target

consumer characteristics from an advertiser that has been selected at the discretion of the advertiser (see col. 29 line 5-44, col. 30 lines 22-64, col. 31 lines 28-55); generate inferred transaction characteristics of the consumer; generating inferred (*judgment based from facts or observation*) consumer characteristics of at least one of the consumers by associating the inferred transaction characteristics with demographic information records and determining applicability of an advertisement to at least one of the consumers by correlating the inferred market characteristics (see col. 35 lines 1-15, col. 44 lines 7-23, col. 66 line 27 to col. 67 line 4, col. 67 lines 53-62, col. 68 lines 48-55, col. 70 line 57 to col. 71 line 48). Ho teaches heuristically determining user's characteristics by statistics based on the preference of similar students (see col. 7 lines 5-23). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use heuristic rules to determine the consumer characteristics of Hendricks in order to estimate or predict the unknown result (inferred characteristics) based on knowledge of prior results, as in Ho. Hendricks also failed to explicitly teach retrieving pre-defined rules. Pirolli teaches use of pre-defined or pre-determined heuristic rules applied to characteristics to determine the category of a page (see col. 6 line 59 to col. 7 line 21). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention was made to pre-define the rule of Hendricks in order to automatically determine the unknown result based on the prior results.

Regarding claims 135-139, Hendricks teaches wherein the plurality of transaction includes purchase transactions (see col. 20 lines 20-34; wherein the demographic information is stored in a private consumer demographic database; the demographic information includes demographic location (see col. 5 lines 7-14, col. 29 lines 6-32); the demographic information

stored in private database (see col. 11 lines 31-40, col. 29 lines 6-32, col. 44 lines 7-23); wherein the set of consumers are identified anonymously (see col. 44 lines 7-67).

Regarding claims 152, Hendricks teaches the target consumer characteristics includes target demographic characteristic and target purchase characteristics (see col. 35 lines 15-65).

Regarding claims 153 and 155, Hendricks teach accessing a plurality of consumer transaction records corresponding to a plurality of consumers and demographic information records corresponding to at least some of the plurality of consumers (see col. 4 lines 12-17, col. 54-67, col. 5 lines 1-19, col. 11 lines 31-40, col. 20 lines 4-48, col. 26 line 48 to col. 27 line 6); Hendricks teaches determining characteristic of the consumer or generating a simulated profile *using an algorithm that analyzes access history and viewing habits (based on psychological or sociological or behavior)* (using test information generated from a statistically significant number of viewers, the simulated profile algorithm *estimates the viewer's age, education, sex and other relevant information*) (col. 66 line 53 to col. 67 line 4); retrieving at least one target consumer characteristics from an advertiser that has been selected at the discretion of the advertiser (see *col. 29 line 5-44, col. 30 lines 22-64, col. 31 lines 28-55*); generate inferred transaction characteristics of the consumer; generating inferred (*judgment based from facts or observation*) consumer characteristics of at least one of the consumers by associating the inferred transaction characteristics with demographic information records and determining applicability of an advertisement to at least one of the consumers by correlating the inferred market characteristics (see col. 35 lines 1-15, col. 44 lines 7-23, col. 66 line 27 to col. 67 line 4, col. 67 lines 53-62, col. 68 lines 48-55, col. 70 line 57 to col. 71 line 48). Ho teaches heuristically (heuristic rule is self-learning approach based on knowledge of prior results based on

experiments conducted in statistics and other fields) determining user's characteristics by **statistics** based on the preference of similar students (obtained through academic research (see col. 7 lines 5-23). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use heuristic rules to determine the consumer characteristics of Hendricks in order to estimate or predict the unknown result (inferred characteristics) based on knowledge of prior results, as in Ho. Hendricks also failed to explicitly teach retrieving pre-defined rules. Pirolli teaches use of pre-defined or pre-determined heuristic rules applied to characteristics to determine the category of a page (see col. 6 line 59 to col. 7 line 21). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention was made to pre-define the rule of Hendricks in order to automatically determine the unknown result based on the prior results.

Regarding claim 154, Hendricks teaches the target consumer characteristics includes target demographic characteristic and target purchase characteristics (see col. 35 lines 15-65).

Regarding claims 156-159, Hendricks teaches wherein the plurality of transaction includes purchase transactions (see col. 20 lines 20-34; wherein the demographic information is stored in a private consumer demographic database; the demographic information includes demographic location (see col. 5 lines 7-14, col. 29 lines 6-32); the demographic information stored in private database (see col. 11 lines 31-40, col. 29 lines 6-32, col. 44 lines 7-23); wherein the set of consumers are identified anonymously (see col. 44 lines 7-67).

#### ***Response to Arguments***

Applicant's arguments filed March 14, 2008, with respect to the rejection(s) of claim(s) 153-139, 153-159 have been fully considered and are persuasive. Therefore, the rejection has

been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Ho and Pirolli.

Regarding claim 133, Applicant asserts that a "pre-defined heuristic rule [which has] been developed based on at least one psychological or sociological study," as recited in independent claim 133, is a rule which has been developed from outside studies prior to the implementation of the system or application of the rule. Applicant argues that Hendricks discloses neither the development nor application of a heuristic rule. Applicant also asserts that even if Hendricks could be read to reach a heuristic rule, Hendricks does not disclose a rule that is based on a psychological or sociological study. Examiner now provides Ho for the teaching of heuristic rules that has been developed form outside studies prior to the implementation of the system. Applicant also argues that Ho (which was used in claim 153) is not analogous prior art. Examiner respectively disagrees. In response to applicant's argument that Ho is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Ho used heuristic rule to determine or predict unknown user's characteristics by *statistics* based on the *preference of similar students* (user behavior or action which a psychological or sociological study).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Yehdega Retta/

Primary Examiner, Art Unit 3622

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